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October 29, 1998

Magalie R. Salas, Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: Notification of Ex Parte Presentation

GTE Telephone Operators, GTOC Tariff No. 1,
GTOC Transmittal No. 1148
CC Docket No. 98-79

BellSouth Telecommunications, Inc. BellSouth Tariff FCC No. 1
BellSouth Transmittal No. 476
CC Docket No. 98-161

Pacific Bell Telephone Company, Pacific Bell Tariff FCC No. 128
Pacific Transmittal No. 1986
CC Docket No. 98-103

Bell Atlantic Telephone Companies, Tariff No. 1
Bell Atlantic Transmittal No. 1076
CC Docket No. 98-168

Dear Ms. Salas:

Pursuant to Section 1.1206(b)(2) of the Commission's Rules, the Association for Local Telecommunications Services ("ALTS") and Intermedia Communications Inc. ("Intermedia") provides notice of an oral *ex parte* presentation related to the above-captioned docketed proceedings on October 29, 1998. The presentations were made by Ms. Cronan O'Connell of

KELLEY DRYE & WARREN LLP

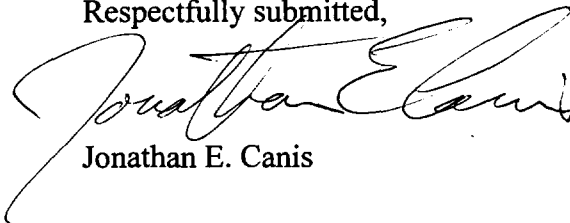
Magalie R. Salas, Secretary
October 29, 1998
Page Two

ALTS, Ms. Heather Gold of Intermedia, and Mr. Jonathan Canis of Kelley, Drye & Warren. The presentations were made to Mr. Thomas Power, Legal Assistant to Chairman Kennard.

During the presentation, the parties discussed a variety of issues related to the dedicated asynchronous digital subscriber line ("ADSL") services specified in the above-referenced tariff proceedings. Specifically, the parties discussed issues relating to the scope of the Commission's tariff investigations in this proceeding and the potential effect that any decision rendered in the instant investigations could have on other parties, as well as on other Commission policies. ALTS and Intermedia requested that the Commission clarify that the decision rendered in the instant proceeding pertain only to the dedicated Internet traffic service proposed in the incumbent local exchange carrier ("ILEC") tariffs. As part of the presentation, Intermedia circulated a handout, a copy of which is appended to this filing.

Pursuant to 1.1206(b)(2), Intermedia submits an original and one (1) copy of this oral *ex parte* notification for inclusion in the public record of each above-referenced proceedings. Please direct any questions regarding this matter to the undersigned.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Jonathan E. Canis".

Jonathan E. Canis

cc: Thomas Power, Esq.
International Transcription Service

INTERMEDIA COMMUNICATIONS INC.

**EX PARTE PRESENTATION
IN CC DOCKET NOS. 98-79,
98-103, 98-161 and 98-168**

THE COMMISSION MUST AVOID AMBIGUITY

- ILEC BEHAVIOR SHOWS THEY WILL
EXPLOIT ANY AMBIGUITY TO AVOID
INTERCONNECTION CONTRACTS
 - INITIAL UNILATERAL REFUSALS TO PAY
 - OPPOSITIONS TO CLEC ATTEMPTS TO
ENFORCE CONTRACTS BEFORE PUCs
 - APPEALS OF PUC DECISIONS
 - PUBLIC STATEMENTS THAT FCC ORDER
WILL OVERTURN STATE DECISIONS

DECLARE DIAL-UP ISP TRAFFIC "LOCAL"

- TO AVOID ANY AMBIGUITY AND UNINTENDED CONSEQUENCES, THE COMMISSION SHOULD MAKE CLEAR THAT, FOR PURPOSES OF RECIPROCAL COMPENSATION, DIAL-UP CALLS TO ISPs ARE TO BE TREATED AS LOCAL TRAFFIC
- NECESSARY TO AVOID AMBIGUITY THAT WOULD PROMPT ILECs TO CHALLENGE VALIDITY OF 23 STATE DECISIONS

DECLARE DIAL-UP ISP TRAFFIC LOCAL (cont'd)

- SUCH ACTION IS CONSISTENT WITH THE
"ONE CALL" THEORY OF JURISDICTION
 - TRAFFIC MAY BE JURISDICTIONALLY
INTERSTATE, BUT DEFINED AS "LOCAL" FOR
PURPOSES OF COMPENSATION PER
INTERCONNECTION AGREEMENTS
 - FCC HAS LONG APPROVED LOCAL TARIFFING
AND SEPARATIONS TREATMENT
 - | THIS TREATMENT UPHELD BY 8TH CIRCUIT
 - ARMIS HAS "LOCAL INTERSTATE" CATEGORY

DECLARE DIAL-UP ISP TRAFFIC LOCAL (cont'd)

■ IS CONSISTENT WITH (AND REQUIRED BY) 8TH CIRCUIT DECISION:

- "ISPs subscribe to LEC facilities in order to receive local calls from customers who want to access the ISP's data, which may or may not be stored in computers outside the state in which the call was placed."

- *Southwestern Bell Tel. Co. v. F.C.C.*, No. 97-2618, slip op. at 39 n.9 (8th Cir. Aug. 19, 1998).

DECLARE DIAL-UP ISP TRAFFIC LOCAL (cont'd)

- COMMISSION SHOULD CLARIFY THAT THE CLASSIFICATION OF DIAL-UP ISP TRAFFIC WILL REMAIN "INTERSTATE LOCAL" UNTIL INTERCONNECTION AGREEMENTS REQUIRING MUTUAL COMPENSATION ARE NO LONGER IN EFFECT
 - NEEDED FOR CONTINUITY AFTER COMMISSION RELEASES EXPECTED ORDERS

ENFORCE PAYMENT OF AMOUNTS DUE

- EXERCISE OF JURISDICTION OVER DIAL-UP ISP TRAFFIC EMPOWERS -- AND OBLIGATES -- COMMISSION TO USE ITS ENFORCEMENT POWERS TO COMPEL PAYMENT OF MUTUAL COMPENSATION
 - COMMISSION SHOULD AFFIRMATIVELY STATE THAT ITS "ROCKET DOCKET" PROCESS IS AVAILABLE FOR SUCH RELIEF

ENFORCE PAYMENT OF AMOUNTS DUE (cont'd)

- BEING CURRENT ON PAYMENT OF ISP
MUTUAL COMPENSATION SHOULD BE A
PRECONDITION FOR REGULATORY
APPROVALS OR FORBEARANCE
 - MERGER APPROVALS
 - INTER-LATA RELIEF UNDER § 271
 - TRANSFERS OF LICENSES AND ASSETS
 - FORBEARANCE RE TARIFFING, PRICING
FLEXIBILITY, SEPARATE AFFILIATES, ETC.